



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

ELP
Docket No. 5340-00
29 January 2001

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel for the Board for Correction of Navy Records, sitting in executive session, considered your application on 24 January 2001. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board's was unable to obtain your service record. However, based upon the records you provided, the Board found that you reenlisted in the Navy on 29 January 1956 for six years as an FN (E-3). At the time of your reenlistment, you had completed more than three years of prior honorable service and received the Korean Service Medal for service on board the USS MANCHESTER.

During the first nine months of your second enlistment, you received a nonjudicial punishment for an unauthorized absence (UA) of less than four hours and were convicted by a general court-martial of two periods of UA totalling about 58 days. The general court-martial sentenced you to confinement at hard labor for six months and forfeitures of \$78 per month for six months.

Records reflect that you had a five-day period of UA, from 3-8 March 1957, for which no disciplinary action is shown. You served the next seven months without incident. However, during the period from October to 19 December 1957 you received two NJPs

and were convicted by two summary courts-martial. Your offenses consisted of two periods of UA totalling about five days, missing restricted mens' muster, absence from your appointed place of duty, and disobedience of a lawful order.

On 21 March 1958 you were convicted by special court-martial of two periods of UA totalling about 12 days, from 18-25 February and 27 February to 4 March 1958. You were sentenced to confinement at hard labor for six months, forfeitures of \$45 per month for six months, and a bad conduct discharge. The Navy Board of Review affirmed the findings and the sentence on 27 June 1958. You received the bad conduct discharge on 21 August 1958.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your prior honorable service, good post-service conduct, your pastor's letter, and the fact that it has been more than 42 years since you were discharged. The Board noted your contention to the effect that immaturity, marital problems, and alcohol abuse contributed to the misconduct which led to your discharge. You assert that these factors were never considered by the Navy. However, the Board concluded that the foregoing factors and contentions were insufficient to warrant recharacterization of your discharge given your record of three NJPs and convictions by two summary courts-martial, a special court-martial, and a general court-martial. Alcohol abuse and marital problems may be considered as mitigating factors, but neither excuses misconduct. The Board concluded that you were guilty of too much misconduct during your second period of service to warrant recharacterization to honorable or under honorable conditions. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director